



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/635,043

08/05/2003

Donald E. Weder

8403.956

4660

30589

7590

10/11/2005

DUNLAP, CODDING & ROGERS P.C.  
PO BOX 16370  
OKLAHOMA CITY, OK 73113

EXAMINER

GELLNER, JEFFREY L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/635,043

Applicant(s)

WEDER ET AL.

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC §103*

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 17, and 25-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1<sup>st</sup> document listed in foreign patent section of Applicant's 1<sup>st</sup> 1449) in view of Kugler (US 3,405,863).

As to Claim 1, Newport discloses a floral sleeve (Figs. 1 and 2) comprising a body having an upper end, a lower end, a first panel having a first upper edge and a first lower edge, a second panel having a second upper edge and a second lower edge, an interior space, the body having a single left side edge sealed from the upper end to the lower end (line 7 of page 3), a single right side edge sealed from the upper end to the lower end (line 7 of page 3), the first panel and the second panel together forming a sidewall in the body, the body tapered (Figs. 1 and 2) from the upper end to the lower end, and initially having a flattened condition (Figs. 1 and 2), and wherein when the body is opened from the flattened condition to an opened condition for containing a pot; and, a pot disposed within the interior space of the cover (Fig. 2). Not disclosed is the sleeve with a bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge; and, a gusset

Art Unit: 3643

extending inwardly with an inner fold extending from the left to right sides that has a bottom surface that is flat when a pot is disposed within the floral sleeve. Kugler, however, discloses a sleeve with a bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge (Figs. 1, 2, and 5); and, a gusset (28 of Fig. 5) extending inwardly with an inner fold extending from the left to right sides that has a bottom surface that is flat when a pot is disposed within the floral sleeve (from region around leadline of 218 in Fig. 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Newport by adding a bottom and gusset as disclosed by Kugler so as to allow the sleeve to accommodate curved articles (see Kugler at col. 1 lines 38-41), specifically, pots. The sleeve of Newport as modified by Kugler inherently performs the method steps recited in Claim 1.

As to Claim 2, Newport as modified by Kugler further disclose an upper edge that is horizontal (see Fig. 1 of Newport).

As to Claims 3 and 4, the limitations of Claim 1 are disclosed as described above. Not disclosed is the upper edge being angular or non-linear. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Kugler by making the upper edge angular or non-linear so as to meet consumer demand.

As to Claim 5, Newport as modified by Kugler further disclose a detachable upper portion via a detaching element (see Newport at Fig. 1).

As to Claim 6, Newport as modified by Kugler further disclose an upper portion adapted to support the body from a support device with a support element (12 of Fig. 1 of Newport).

As to Claim 7, Newport as modified by Kugler further disclose the upper portion sized to surround and encompass a floral grouping in a pot (Fig. 2 of Newport).

As to Claim 8, Newport as modified by Kugler further disclose an upper portion adapted to support the body from a support device (12 of Newport) and the upper portion sized to encompass a floral grouping disposed within a pot (Fig. 2 of Newport).

As to Claim 9, Newport as modified by Kugler further disclose perforations (Figs. 1 and 2 of Newport).

As to claim 25, Newport as modified by Kugler further disclose a skirt (region below perforations of Newport).

As to Claim 17, Newport discloses a floral sleeve (Figs. 1 and 2) comprising a body having an upper end, a lower end, a first panel having a first upper edge and a first lower edge, a second panel having a second upper edge and a second lower edge, an interior space, the body having a single left side edge sealed from the upper end to the lower end (line 7 of page 3), a single right side edge sealed from the upper end to the lower end (line 7 of page 3), the first panel and the second panel together forming a sidewall in the body, the body tapered (Figs. 1 and 2) from the upper end to the lower end, and initially having a flattened condition (Figs. 1 and 2); and wherein when the body is opened from the flattened condition to an opened condition for containing a pot; a pot disposed within the interior space of the cover (Fig. 2); and, an upper portion detachable by perforations (Figs. 1 and 2). Not disclosed is a bottom having a lower

Art Unit: 3643

bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge; and, a gusset extending inwardly with an inner fold extending from the left to right sides that has a bottom surface that is flat when a pot is disposed within the floral sleeve; and, perforations. Kugler, however, discloses a sleeve with a bottom having a lower bottom surface, a left side bottom surface extending upwardly from the lower bottom surface to the left side edge, and a right side bottom surface extending upwardly from the lower bottom surface to the right side edge (Figs. 1, 2, and 5); and, a gusset (24 of Fig. 1) extending inwardly with an inner fold extending from the left to right sides that has a bottom surface that is flat when a pot is disposed within the floral sleeve (from region around leadline of 218 in Fig. 6); and, perforations (26 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Newport by adding a bottom and gusset as disclosed by Kugler so as to allow the sleeve to rounded objects such as pots (see Kugler at col. 1 lines 38-43) and to have the perforations with a non-linear edge as to meet consumer demand. The sleeve of Newport as modified by Kugler inherently performs the method steps recited in Claim 17.

As to Claim 26, Newport as modified by Kugler further disclose an upper portion adapted to support the body from a support device with a support element (12 of Fig. 1 of Newport).

As to claim 27, Newport as modified by Kugler further disclose a skirt (region below perforations of Newport).

Art Unit: 3643

Claims 10-12 and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1<sup>st</sup> document listed in foreign patent section of Applicant's 1<sup>st</sup> 1449) in view of Kugler (US 3,405,863) in further view of Benoit (US 4,554,192).

As to Claims 10 and 18, the limitations of Claims 1 and 17 are disclosed as described above. Not disclosed is the floral sleeve in a pad. Benoit, however, discloses a floral sleeve in a pad (col. 5 lines 6-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Kugler by using in a pad as disclosed by Benoit so as to improve the ease of use of the sleeves.

As to Claims 11 and 19, Newport as modified by Kugler as further modified by Benoit further disclose the pad being bonded (Benoit at col. 5 lines 6-11).

As to Claims 12 and 20, Newport as modified by Kugler as further modified by Benoit further disclose the pad clipped (Benoit at col. 5 lines 6-11).

Claims 13-16 and 21-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Newport (AU 42319/78; 1<sup>st</sup> document listed in foreign patent section of Applicant's 1<sup>st</sup> 1449) in view of Kugler (US 3,405,863) in further view of Sievers (US 1,868,853).

As to Claims 13 and 21, the limitations of Claims 1 and 17 are disclosed as described above. Not disclosed is a securing element disposed about the sleeve. Sievers, however, discloses a securing element (14 of Fig. 1) about a sleeve with a potted plant therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Kugler by adding a securing element as disclosed by Sievers so as to meet consumer demand.

As to Claims 14 and 22, Newport as modified by Kugler as further modified by Sievers further disclose the securing element as a ribbon (14 of Fig. 1 of Sievers).

As to Claims 15 and 23, the limitations of Claim 13 and 23 are disclosed as described above. Not disclosed is the securing element placed above the upper end of the pot. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of Newport as modified by Kugler and Sievers by placing the securing element above the pot so as to meet consumer demand.

As to Claims 16 and 24, Newport as modified by Kugler as further modified by Sievers further disclose the securing element placed below the upper end of the pot (Fig. 1 of Sievers).

#### ***Response to Arguments***

Applicant's arguments filed 1 August 2005 have been fully considered but they are not persuasive. The crux of Applicant's argument is that Kugler discloses a gusseted bottom for a container that is for rounded objects and so would not be flat (Remarks pages 11-13). Examiner considers the object shown in Fig. 6 of Kugler at the headline of element 28 to be flat.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

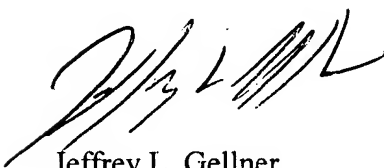
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 3643

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00, alternate Fridays off, if attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey L. Gellner  
Primary Examiner  
Art Unit 3643